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U.S. Department of Housing and Urban Development
Office of Housing-Federal Housing Commissioner

A District Attorney's Guide for Prosecution of Tenant Fraud in Programs Administered by the U.S. Department of Housing and Urban Development

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A District Attorney's Guide for Prosecution of Tenant Fraud in Programs Administered by the U.S. Department of Housing and Urban Development

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FOREWORD

This guide is intended to provide District Attorneys and other local prosecutors with general information about the U.S. Department of Housing and Urban Development's (HUD) housing assistance programs, the Public Housing Authority (PHA) which administers them, and the tenant fraud problems associated with these programs. HUD knows that many prosecutors have limited investigative resources, so HUD is training PHA staff to investigate and gather evidence of tenant fraud that would support your prosecution of a case with little or no investigative work on your part. Although PHAs will first attempt to resolve tenant abuses administratively, there are many cases where the tenant's actions merit prosecution for fraud. Although our office will continue to conduct investigations and seek Federal prosecutions, our resource limitations make it imperative to find ways to help increase local prosecutions of these frauds. We hope this guide will assist you and PHA staff in understanding each others requirements and lead to cooperative efforts in developing fraud cases.

Paul A. Adams
Inspector General
U.S. Department of Housing
and Urban Development

TENANT FRAUD AND ITS IMPACT

Various housing programs rely on the applicant's or tenant's voluntary disclosures to determine eligibility and level of benefit. However, there are applicants and tenants who deliberately try to cheat. These intentional frauds have a wide ranging impact on the housing programs and the people who need help. Many truly needy people who are eligible for assistance are denied safe, decent, affordable housing. As a result, tens of thousands of families reside on waiting lists instead of in housing units. And while they wait, housing assistance is going to the wrong people – people who have the income or the resources to be self-sufficient, but receive housing assistance through dishonesty and deceit. They are stealing from the poor.

What is a Public Housing Authority (PHA)?

The Public Housing Program was authorized in the United States Housing Act of 1937, and calls for federally financed public housing, which is to be administered locally. HUD provides loans, grants, annual contributions, and operating subsidy funding to local housing authorities to build, acquire, rehabilitate, and subsidize the rent on housing for low-income families. Each State has established administering authorities known as Public Housing Agencies. There are about 3,300 PHAs nationwide. You may have many PHA's authorized in each State. The jurisdictions usually follow city or county lines or those of major metropolitan areas.

What Abuses/Frauds Occur?

Tenant frauds generally are false statements or documents submitted to:

- Avoid disclosure of employment or income;
- Underreport disclosed income or assets;
- Avoid disclosing all persons who will be living in the household; or
- Overstating certain allowances that are deducted from income.

In order to be eligible for housing assistance, a family must meet HUD income limits for the area. The tenant pays a percentage of income, as adjusted by various allowances. Understating or failing to disclose income or assets causes the tenant to pay less rent than is proper.

One of the more common ways of underreporting income includes omitting the income of a spouse or adult child. Another is to omit the income from a first or second job. In some cases, the family is given verification forms to deliver to their employer but they forge the employer's response. Sometimes applicants intercept the verification forms and falsify them.

Falsifying who lives in the household has the same effect. When tenants over state the number of children living with them, too large of an allowance is deducted from their income. They also are given a larger unit and a higher subsidy than they are entitled to receive.

On the other hand, when families do not report the presence of a working adult as required, they pay less rent than they should. This is because the unreported person's income should be included in the eligibility calculations. The most common problem is a live-in boyfriend/girlfriend, or a husband/wife from whom the tenant

supposedly is separated or divorced. Cases are also detected where the tenant and landlord are living together in a Section 8 unit.

Falsely overstating allowances such as child care, medical, or other permitted "unusual expenses" causes the subsidy paid for the tenant to be increased. Often tenants will forge babysitting verifications or have relatives claim payments for babysitting that are not actually paid.

Tenants participating in these housing programs often participate in Food Stamp and Welfare programs. Coordination with these programs is desirable because many times tenants are committing the same fraud in other Government programs.

What Laws are Violated?

Because this guide cannot include specific statutes for each State, we are providing only a general description of laws that could be used to prosecute tenant fraud. Each prosecutor must identify the applicable State statutes. If a State does not have a specific criminal statute on tenant fraud, then a more general statute can be used. Some examples of statutes that have been used in State or local courts to prosecute tenant fraud include those prohibiting:

- Stealing
- Theft, Grand Theft, or Theft by Deception
- Grand Larceny or Petit Larceny
- Obtaining Property/Goods by False Pretenses
- Forgery
- Conspiracy
- False Statements

Appendix 1 gives examples of cases prosecuted under State statutes.

What Evidence and Case Preparation Can the PHA Supply

On each case, the PHA can provide the following material to support fraudulent acts:

- Summary of fraudulent act and how it occurred;
- All relevant applications and certification forms that contain the false statement(s);
- Public records and documents obtained during verification and research efforts that show the tenant falsified their application or reexamination forms;
- Potential witness list (to include names, addresses, telephone numbers, and summary of information each has relevant to the case);
- The calculations of fraudulent subsidy received, including a comparison of subsidy calculations based on what the tenant reported and what was the actual amount received;
- A chronology of events and summary of the PHA's efforts on the case.

After a review of the above information, you can advise the PHA of any additional evidence needed to prosecute and how the file should be organized. Appendix 2 contains a sample report to a District Attorney. This form can be modified to fit your particular needs.

Orienting the PHA to your Case Preparation Needs

Although PHAs are instructed to gather pertinent documents, many have little experience in working with prosecutors. In an initial meeting with PHA representatives, you can exchange information on your requirements and establish each other's responsibilities in the process.

Items you may wish to discuss:

- Background on the PHA;
- Overview of the housing process and tenant fraud problem;
- The PHA's program for handling suspected violations;
- Review of sample files and forms used;
- State law to be used to prosecute, and your requirements for evidence in that type of fraud;
- Your preferences for organizing the case, and the forms/reports you need completed;
- Any dollar loss thresholds for case acceptance;
- Instructions for the PHA regarding custody of original documents, dealing with defense attorneys, Grand Jury testimony;
- Restrictions, if any, on publicizing convictions;
- Projected future workload based on the PHA's size, and interest in pursuing prosecutions.

Questions regarding tenant fraud may be referred to HUD's Regional Inspectors General Offices listed in Appendix 3.

We hope the information in this guide will be helpful to you. If you have questions or require information regarding this guide, please contact the Director, Fraud Control Division, at the following address:

U.S. Department of Housing and Urban Development
Office of Inspector General
Room 8254
451 7th Street, S.W.
Washington, D.C. 20410
(202) 426-6493.

EXAMPLES OF CASES PROSECUTED UNDER STATE STATUTES

State of South Carolina, County of Spartanburg

- A tenant obtained housing assistance of $6,856 to which she was not entitled by certifying that her only income was from AFDC. The tenant actually had a full-time job. She pled guilty to obtaining property by false pretense, received a 3-year sentence (which was suspended), and was ordered to make restitution.

State of Mississippi, Harrison County

- A resident in Public Housing was sentenced to five years probation and ordered to make full restitution of $8,779 in housing benefits which he obtained under false pretense. Over a 4-year period, the family's rent was based solely on the spouse's earnings. During this period, the head of household reported no income from any source due to the fact that he could not find work. It was found that he had been employed at a military base for the entire period, using a false Social Security Number.

State of Ohio, Cuyahoga County

- A tenant was convicted of grand theft for obtaining housing assistance to which she was not entitled by falsifying her income and family composition. The woman failed to report her husband as a member of the household and failed to report her income and her husband's income other than AFDC income. The husband's place of residence was established through Motor Vehicle records and the Post Office. The tenant received a 1-year suspended prison sentence, 2-years probation, and was ordered to make restitution of $1,100.

State of Oregon

- A tenant was convicted on theft charges stemming from his illegal receipt of $4,707 in rent supplement benefits from HUD and $4,000 for a relocation housing assistance payment from the City of Portland. The tenant received rent supplement benefits at two projects by not reporting his income at either project. The tenant was sentenced to make full restitution to both HUD and the City of Portland, placed on 5 years probation, and required to perform 180 hours of community service.

State of Wisconsin

- A criminal complaint for theft charged that a Section 8 tenant had knowingly omitted the income of a household member on benefit recertification forms. An investigation determined that the tenant had disclosed the earnings of a boyfriend to the Welfare Department but had not reported the same information to HUD project managers. The tenant had received ineligible rental subsidy totaling approximately $22,000. The tenant subsequently pled guilty and was sentenced to an indefinite period of community service, 3-years probation, and ordered to make restitution of $12,200. The case was prosecuted by the Appleton, Wisconsin District Attorney.

State of Alaska

- A Section 8 tenant pled guilty in the Superior Court in Fairbanks, Alaska, to two counts of Second Degree Theft involving welfare and rental assistance payments. When applying for rental assistance, a Section 8 tenant was charged with concealing income received from the State of Alaska in excess of $7,000. An investigation conducted by HUD in cooperation with the parallel welfare case investigated by the Welfare Department of the Attorney General's office resulted in both matters being prosecuted by the State of Alaska. The tenant pled guilty and was sentenced to 6 months in an alternative placement center and ordered to make restitution of $10,000 to HUD and the State of Alaska.

State of California, Mendocino County

- A former tenant pled guilty to grand theft of $9,359 of Section 8 Housing Assistance payments. She failed to report the occupancy and income of her husband. The former tenant was sentenced to serve 2 years for grand theft to be served concurrently with 3 years for Welfare fraud and also ordered to make full restitution. The tenant reported her husband had moved out but a Welfare investigation proved he had not.

State of New Jersey, Essex County

- A husband and wife pled guilty to theft by deception and were placed in a Pre-Trial Intervention Program and were ordered to make restitution of $7,420. Each was ordered to pay $3,710. The husband and wife continued for several years to only report the husband's earnings on recertifications. Project management learned the wife was working for the City and was able to verify the unreported income.

State of Kansas, County of Wyandotte

- A tenant was convicted of theft, and sentenced to a term of not less than one (1) nor more than five (5) years. The tenant on certification/recertification claimed that her son was living with her, when in fact, he was in the custody of another person and residing elsewhere. The tenant would not have qualified for assistance without a dependent.

State of Idaho, County of Bannock

- A former Section 8 tenant and landlord were sentenced in Idaho District Court to a suspended sentence of 1-year on the condition that full restitution of $5,316 be made to HUD and $4,166 to the State Department of Health and Welfare. The investigation was conducted by the Idaho State Department of Health and Welfare, assisted by HUD's Office of Inspector General. The tenant and landlord resided together and failed to report their total income.

State of Mississippi, Jackson County

- A man and woman were convicted of conspiracy in obtaining rental assistance by false pretense. Over a 3-year period, the woman represented herself as a

single parent of 3 children, with no income other than AFDC, and with no other household members. The man was reported by her to be the absent parent of 2 of the children; whereabouts unknown. His place of residence was established through present and previous employer records, Employment Security Commission records, Post Office records, Department of Motor Vehicle records, voter registration records, and testimony from neighbors and other witnesses. They were sentenced to 5 years probation and ordered to make full restitution of court costs and of the overpaid housing assistance.

TO: _____
Prosecutor *Jurisdiction*

FROM: _____
Preparer *Position* *Phone*

_____
Signature and date submitted

REPORT TO DISTRICT ATTORNEY

_____County_____District_____State

VERSUS

DEFENDANT (A)_____

PRESENT ADDRESS_____

_____

_____DOB_____

SEX:____RACE:____SS#_____

CUSTODY STATUS: ☐ NOT ARRESTED ☐ JAIL ☐ BOND
TYPE BOND: ☐ CASH ☐ PROPERTY ☐ OWN RECOG.

DEFENDANT (B)_____

PRESENT ADDRESS_____

_____

_____DOB_____

SEX:____RACE:____SS#_____

CUSTODY STATUS: ☐ NOT ARRESTED ☐ JAIL ☐ BOND
TYPE BOND: ☐ CASH ☐ PROPERTY ☐ OWN RECOG.

IDENTIFYING INFORMATION:

DEFENDANT (A):

_____
SUBSIDIZED ADDRESS

_____
CITY STATE ZIP

DATES OF CRIME:
_____19____ _____19____
FROM TO

IDENTIFYING INFORMATION:

DEFENDANT (B):

_____
SUBSIDIZED ADDRESS

_____
CITY STATE ZIP

DATES OF CRIME:
_____19____ _____19____
FROM TO

Defense Attorney *(if known)*_____

VICTIM: *(HOUSING AGENCY)*

_____
AGENCY NAME

_____
STREET ADDRESS CITY COUNTY STATE ZIP

_____ _____
TELEPHONE NUMBER AGENCY CASE NO.

GENERAL CASE DATA:

Charges: *(Note if Defendant (A), Defendant (B), or Both).*

Value /amount of Loss: $_____

- [ ] Falsifying Household income
- [ ] Falsifying Household Assets
- [ ] Falsifying Household Size or Composition
- [ ] Other (Explain) _____

Summary: (*Provide a brief narrative which explains the charges. Please Type)*

_____

_____

_____

_____

_____

_____

_____

_____

Dates of Original Application and Subsequent Recertifications

_____ 19____ _____ 19____

_____ 19____ _____ 19____

_____ 19____ _____ 19____

_____ 19____ _____ 19____

File Data: (*You must include the items listed below with the REPORT TO DISTRICT ATTORNEY)*

1. WITNESS LIST: (SEE ATTACHED FORM)
2. WITNESS' STATEMENTS
3. CHRONOLOGY OF EVENTS: (LIST ALL PERTINENT EVENTS BY DATE)
4. FALSE STATEMENTS AND DOCUMENTS: INCLUDE ALL APPLICATIONS, PERSONAL DECLARATIONS CERTIFICATIONS AND OTHER DOCUMENTS WHICH SHOW THE DEFENDANT'S MISREPRESENTATIONS.
5. HOUSING AGENCY VERIFICATIONS: INCLUDE ALL DOCUMENTS WHICH SHOW ACTUAL INCOME, ASSETS, OR CIRCUMSTANCES MISREPRESENTED BY THE DEFENDANT TO THE HOUSING AGENCY. MAKE AN (X) FOR THOSE ITEMS INCLUDED IN FILE.

   a. _____Verification of Wages
   b. _____Verification of Income other than wages (Child support, annunity, etc.)
   c. _____Verification of Asset(s)
   d. _____Verification of School Records
   e. _____Credit Bureau Report
   f. _____Copy of Federal/State Income Tax Return
   g. _____Report of Statements made by defendant(s)
   h. _____Copies of pertinent Public Records (Deeds, Judgements, etc.)
   i. _____Documents showing residency at subsidized address that was unreported
   j. _____Other _____
   k. _____Calculation of Overpaid Subsidy Form

(page 3 of 3)

WITNESS LIST

WITNESS ( ) _____ AGE _____

BUSINESS ADDRESS _____ WORK PHONE _____

HOME ADDRESS _____ HOME PHONE _____

CAN TESTIFY TO _____

_____

WITNESS ( ) _____ AGE _____

BUSINESS ADDRESS _____ WORK PHONE _____

HOME ADDRESS _____ HOME PHONE _____

CAN TESTIFY TO _____

_____

WITNESS ( ) _____ AGE _____

BUSINESS ADDRESS _____ WORK PHONE _____

HOME ADDRESS _____ HOME PHONE _____

CAN TESTIFY TO _____

_____

WITNESS ( ) _____ AGE _____

BUSINESS ADDRESS _____ WORK PHONE _____

HOME ADDRESS _____ HOME PHONE _____

CAN TESTIFY TO _____

_____

WITNESS ( ) _____ AGE _____

BUSINESS ADDRESS _____ WORK PHONE _____

HOME ADDRESS _____ HOME PHONE _____

CAN TESTIFY TO _____

_____

WITNESS ( ) _____ AGE _____

BUSINESS ADDRESS _____ WORK PHONE _____

HOME ADDRESS _____ HOME PHONE _____

CAN TESTIFY TO _____

_____

(Attach supplemental witness list, if necessary)

SUBMITTING AGENCY: _____ DATE APPROVED: _____

AGENCY CASE NO.: _____ REVIEW BY (D.A. Staff Member): _____

PREPARED BY: _____ DATE REVIEWED: _____

APPROVED BY (Department Supervisor): _____

HUD Regional Inspectors General Offices

	Regions	States/Localities Serviced	Telephone Numbers (F)FTS; (C)Commercial
I	Boston	CT, MA, ME, NH, RI, VT	835-5293(F) 617-565-5293(C)
II	New York	NJ, NY, PR, VI	264-8062(F) 212-264-8062(C)
III	Philadelphia	DC, DE, MD, PA, VA, WV	597-2413(F) 215-597-2413(C)
IV	Atlanta	AL, FL, GA, KY, MS, NC, SC, TN	242-3359(F) 404-331-3359(C)
V	Chicago	IL, IN, MI, MH, OH, WI	353-4196(F) 312-353-4196(C)
VI	Fort Worth	AR, LA, NM, OK, TX	728-5561(F) 817-885-5561(C)
VII	Kansas City	IA, KS, MO, NE	758-6474(F) 816-374-6474(C)
VIII	Denver	CO, MT, ND, SD, UT, WY	564-2325(F) 303-844-2325(C)
IX	San Francisco	AZ, CA, HI, NV	556-5490(F) 415-556-5490(C)
X	Seattle	AK, ID, OR, WA	399-0272(F) 206-442-0272(C)